



## New Motor Vehicle Board

# In-Site

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02.4 Edition

## BOARD TOURS MANHEIM'S SOUTHERN CALIFORNIA AUTO AUCTION

The New Motor Vehicle Board members and staff recently had the opportunity to experience the wholesale remarketing side of the automobile industry when they toured Manheim's Southern California Auto Auction in Fontana, California.

The tour began with a visit to the fast paced auction lanes. There the Board members and staff stood shoulder to shoulder with dealers actively engaged in bidding on cars traveling quickly through one of fourteen lanes, while fourteen separate auctioneers disposed of the

vehicles in a matter of seconds. A complex and high paced system, many transactions could only be understood by those versed in the language peculiar to auto auctions.

The tour then moved to the vast detailing and reconditioning area where the Board members and staff watched vehicles being painted in several large Blowtherm machines capable of drying paint within forty-five minutes.

The tour was guided by Assistant Manager John Dorming, who graciously planned and provided the auction tour for the Board and

(Con't on Page 2)



Dealer Member Robert Branzuela

## BOARD WELCOMES NEW DEALER MEMBER, ROBERT BRANZUELA

The New Motor Vehicle Board welcomes its newest Board member, Robert Branzuela. Mr. Branzuela, Dealer Member, has served on the Board since August 7, 2002.

Mr. Branzuela is the Managing Partner and a founder of Veracom Automotive Group, a dealer of luxury automobiles since 1984. In 1995, Veracom acquired a Lamborghini franchise, and in June of

(See Branzuela, page 2)



New Motor Vehicle Board Members and staff from left to right:

Public Member Wendy F. Brogin, Executive Director Tom Novi, Dealer Member and Board President Frederick E. (Fritz) Hitchcock, Dealer Member David W. Wilson, General Counsel Howard Weinberg, Public Member Robert T. (Tom) Flish, Public Member, Vice President Glenn E. Stevens, and Staff Counsel Cara O'Neill-Stewart



Wendy Brogin and Glenn Stevens

(Auto Auction)

staff. During the tour, Mr. Dorming explained the history of the Manheim's Auto Auction chain as well as the history of auto auctions in general. Dealer member David Wilson enhanced the discussion by providing auction insights from a dealer's perspective.

The tour concluded with a question and answer period wherein Mr. Dorming fielded questions from the Board regarding issues including, but not limited to, vehicle titles, dealer recourse, and vehicle guarantees. The Board members and staff were very appreciative of the hospitality displayed by Mr. Dorming and Manheim's Southern California Auto Auction.



Board members  
and staff with  
Assistant Manager  
John Dorming

From left to right:

Tom Novi, Wendy Brogin, Tom Flesh, Fritz Hitchcock, Howard Weinberg, Glenn Stevens, John Dorming, and Dave Wilson

(Branzuela)

2000, Veracom opened a Mitsubishi franchise on the San Francisco Peninsula, which has grown into a successful automobile dealership serving the Bay Area and Northern California.

In addition to his business, Mr. Branzuela was appointed to the Board of Directors for the National Association of Minority Automobile Dealers. He earned a bachelor of science degree in Economics from the University of California, Berkeley and he currently resides in Hillsborough, California. Mr. Branzuela was appointed to the Board by Governor Gray Davis and his term will expire on January 15, 2003.

## TOYOTA ADVISORY BOARD

Congratulations are again in order for Board President Fritz Hitchcock, Puente Hills Toyota, City of Industry, California, for being appointed to Toyota's 2001 Customer Services Advisory Board.

## ALJ WILSON RETURNS

The Board is happy to welcome back Administrative Law Judge Ken Wilson. Judge Wilson retired from the State of California March 23, 2002; however, he has returned to the Board on a part time basis as a Retired Annuitant and his return is greatly appreciated.

### IN-SITE



*State of California*  
Gray Davis, Governor

California New Motor Vehicle Board  
1507 21st Street, Suite 330  
Sacramento, California 95814  
(916) 445-2080  
e-mail: nmvb@pacbell.net

*Department of Motor Vehicles*  
Steven Gourley, Director

#### *New Motor Vehicle Board* Members

Robert Branzuela  
Wendy Brogin  
Robert T. (Tom) Flesh  
Angelo Quaranta  
Alan J. Skobin  
Solon C. Soteras  
David W. Wilson

**Officers**  
Frederick E. (Fritz) Hitchcock,  
President  
Glenn E. Stevens,  
Vice-President



*Business, Transportation  
and Housing Agency*  
Maria Contreras-Sweet, Secretary

**Executive Director**  
Tom Novi

**General Counsel**  
Howard Weinberg

**Questions or comments:** Cara O'Neill-Stewart, Editor, nmvb@pacbell.net

## STEVENS INTERVIEWED BY CANADIAN PRESS

Public Board Member  
and Vice President  
Glenn Stevens



New Motor Vehicle Board Vice President Glenn Stevens was recently interviewed on the Canadian *W Network*, an equivalent of the *Public Broadcast System*, regarding his involvement and assistance in the writing of the screenplay for HBO's hit movie *Indictment: The McMartin Trial*, starring James Woods, Mercedes Ruehl, Henry Thomas, and Lolita Davidovich.

Mr. Stevens was a prosecutor with the District Attorney's office in 1984, when he was assigned to co-prosecute the McMartin family and five other teachers on over 200 charges of child molestation, allegedly taking place at the family's daycare center in Manhattan Beach. After working on the case for two years, Mr. Stevens became doubtful of the sufficiency of the evidence against the McMartin defendants. When he was unable to seek a dismissal of the charges, he went public with his doubts, and left the D.A.'s office. After quitting, he wrote his memos of

the case, which were later used by HBO to make the film. Today, Mr. Stevens is a well-respected real estate attorney in Beverly Hills. He has served on the New Motor Vehicle Board since March 2000.

A riveting account of the justice system gone awry, *Indictment* won three Emmy Awards, including one for Best Picture in 1995. In 1996, the film won two Golden Globes, an Edgar Allan Poe Award, and a Young Artist Award, as well as awards from the American Cinema Editors, USA, and the Directors Guild of America, USA. *W Network* plans to air the Stevens' interview following a Canadian showing of *Indictment*, this fall.

## DAEWOO WARRANTY UPDATE

In June 2002, the Board's mediation division received several calls from consumers and dealers concerned about the effect of the recent Daewoo Motor America, Inc.'s ("DMA") bankruptcy filing. Consumers indicated they were not receiving warranty work while dealers were concerned they would not be reimbursed for the warranty work they provided.

In response to the calls, staff contacted DMA to ascertain the status of warranty reimbursement. The numerous complaints received from Daewoo customers, as well as the uncertainty dealers were experiencing regarding warranty reimbursement, were discussed with DMA staff.

As a result of the call, DMA distributed a letter dated July 5, 2002, to all its dealers which clarified the fact that warranty work would be reimbursed through July of 2002, and that after July, "...a new company [would] be formed which [would] continue to be responsible for the Daewoo vehicle manufacturer's warranty services." DMA stated that it expected parts to be available to support future warranty services and urged Daewoo dealers "...to continue to provide warranty service to all Daewoo customers regardless of where they purchased their vehicles."

Subsequently, in late September, staff was informed by Ben Rainwater, Vice President, National Parts & Service Division, that DMA continues to provide parts and warranty reimbursement. In addition, Mr. Rainwater indicated that in mid-October, DMA expects that a Warranty Administrator will be appointed and that the Warranty Administrator will assume the responsibility of providing warranty reimbursement, parts, and related customer service.

### ACTIVE NMVB CASES

<u>Vehicle Code Section</u>	<u>Active</u>
3060 Termination/Modification	16
3062 Establishment/Relocation	7
3064 Delivery and Preparation	0
3065 Warranty Reimbursement	1
3065.1 Franchisor Incentive	0
<b>TOTAL PROTESTS:</b>	<b>24</b>
3050(c) PETITIONS	8
3050(b) APPEALS	0
<b>TOTAL CASES:</b>	<b>32</b>



## BOARD MEETING RECAP

September 10, 2002

### The Board was provided the following Status Reports:

- \*The revised document request policy which waives fees under \$6.00.
- \*The planned implementation of the use of credit cards to pay Board fees.
- \*The Board's positive experience with its electronic-mailing list.
- \*The Board's ongoing staff training program.
- \*The positive feedback received regarding the Board's Industry Roundtable in Indian Wells, April 25, 2002.
- \*The positive financial condition of the Board for fiscal year 2001-2002.
- \*The cooperative study to review Board statutes and regulations.
- \*Collection of fees from manufacturer/distributor licensees within the Board's jurisdiction.
- \*Senate Bills 91 and 774, House of Representatives Bill 1296, and Assembly Bill 2397.

### The Board took the following actions:

- \*Employee Recognition Award bestowed upon Nicole Angulo.
- \*Glenn Stevens and Tom Novi were authorized to attend the National Association of Motor Vehicle Boards and Commissions Fall Workshop.
- \*Completed annual performance review of the Executive Director.



## RECENT BOARD DECISIONS AND RULINGS

The Board considered the following Decisions and Rulings at the September 10, 2002, Board Meeting:

**Sacramento Valley Ford Truck Sales, Inc. v. Sterling Truck Corporation, a subsidiary of Freightliner Corporation, a DaimlerChrysler Company**

**Protest No. PR-1702-00**

Protestant filed a Protest objecting to Respondent's intent to terminate Protestant's franchise. The Board adopted Administrative Law Judge Keith McKeag's Proposed Decision upholding the Protest and disallowing the franchise termination.

**Mandal Truck & Trailer v. Western Star Truck Sales, Inc.**

**Protest No. PR-1810-02**

Respondent filed a Motion to Dismiss which was heard by Administrative Law Judge Anthony Skrocki. The Board adopted Judge Skrocki's Proposed Ruling on Respondent's Motion to Dismiss. The Ruling stayed the protest pending the outcome of an arbitration clause dispute in Federal Court.

**Dow Hammond Trucks Co. v. International Truck and Engine Corporation**

**Petition No. P-445-02**

Respondent filed a Motion to Dismiss which was heard by Administrative Law Judge Marilyn Wong. The Board adopted Judge Wong's Proposed Ruling granting the Motion to Dismiss in part. The Board dismissed all but the first cause of action, which shall be allowed to go forward.

**Advantage Loma Linda, LLC, dba Advantage Saab v. Saab Cars, USA, Inc.**

**Protest No. PR-1809-02**

Respondent filed a Motion to Dismiss heard by Administrative Law Judge Anthony Skrocki. The Board adopted Judge Skrocki's Proposed Ruling granting Respondent's Motion to Dismiss for lack of jurisdiction.

## PENDING COURT CASES



Duarte & Witting Inc., dba Nader Chrysler-Plymouth v. New Motor Vehicle Board; DaimlerChrysler Motors Corporation, Real Party in Interest

Third District Court of Appeal, Filed January 4, 2002

**The legal issue is whether the Board has the statutory authority to grant a motion to dismiss a protest.** Briefing was completed and filed as of June 17, 2002. No date has been set for oral argument by the Appellate Court.

Mazda Motor of America, Inc. v. California New Motor Vehicle Board; David J. Phillips Buick-

Pontiac, dba David J. Phillips Mazda, Real Party Third District Court of Appeal, Filed December 7, 2001

**The legal issue is whether the Board has the statutory authority under Vehicle Code section 3050(c) to adjudicate petition disputes when both parties are licensees, i.e., new motor vehicle dealers, manufacturers, and distributors.** The Board's Response Brief is due October 23, 2002, after which the Appellate Court will decide if oral argument is required.

Freightliner, LLC v. New Motor Vehicle Board; Foothill International, Inc., dba Foothill Freightliner Los Angeles, Real Party in Interest

Sacramento County Sup. Ct., Filed June 24, 2002.

**The legal issue is whether arbitration provisions pursuant to the Federal Arbitration Act (9 USC § 1 et seq.) were controlling and preempted California state law.** This case has been stayed by the parties pending settlement negotiations.

International Truck and Engine Corporation v. New Motor Vehicle Board; Dow Hammond Trucks Company, Real Party in Interest

Sacramento County Sup. Ct., Filed September 26, 2002.

**The legal issue is whether the Board has the statutory authority to hear the underlying petition, and as in Mazda, above, whether the Board can adjudicate petitions involving disputes between licensees.** This case has recently been filed and served on the Board, thus there are no calendared dates to report.

## HEARINGS

### November 18, 2002 - PR-1804-02

Vreeland Cadillac-Pontiac v. General Motors

### December 5, 2002 - PR-1798-02, P-442-02

Daugherty Lincoln-Mercury v. Ford and Winter Volvo

### January 13, 2003 - PR-1819-02

Michael Volkswagen v. Volkswagen (tentative)

### January 27, 2003 - PR-1772-01

Melrose Ford v. Ford (tentative)

### March 17, 2003 - PR-1823-02

The California Automotive Group, Inc. dba Anaheim Mitsubishi v. Mitsubishi Motor Sales of America, Inc. (tentative)

### March 24, 2003 - PR-1822-02

TMG, Inc. dba Whittier Mitsubishi v. Mitsubishi Motor Sales of America, Inc. (tentative)

Dates are subject to change and cases may settle prior to hearing

## REVENUE

NEW MOTOR VEHICLE DEALER		
Annual Fee:	\$	651,612.75
NEW MOTOR VEHICLE BOARD		
Filing fees:		17,800.00
NEW MOTOR VEHICLE BOARD		
Manufacturer/Distributor Annual fee:		972,551.40
NEW MOTOR VEHICLE BOARD		
Hearing Transcripts:		38,374.44
Arbitration Cert. Program Reimbursement		2,527.44
<b>2001-2002 FISCAL YEAR TOTAL</b>	<b>\$</b>	<b>1,682,866.03</b>



Chairperson Jackie Grassinger and Co-Chair Suzanne Takehara

## CSECC FUNDRAISING BEGINS

October is charitable fundraising month at the New Motor Vehicle Board! This month the Board is officially kicking off its fundraising efforts for the 2002 California State Employee's Charitable Campaign ("CSECC"), the State's United Way campaign. As one of the few officially sanctioned fund raising efforts, the United Way supports many worthwhile charitable organizations throughout the area.

The staff held several pre-fundraising events, including a Valentine's Day Cupcake and Card Sale, a Cookie Bake Sale, and a Breakfast Bonanza. While the events were highly successful, the fundraising efforts are expected to really pick up steam when the Board begins selling the *New Motor Vehicle Board Recipe Book*. All revenue goes to the CSECC campaign.

Filled with the staff's favorite recipes and tips, the staff has worked hard to compile the first edition of this Recipe Book, and plans to sell the book at the bargain price of seven dollars and fifty cents. The staff expects sales to be brisk.

The Board has received many fundraising awards over the years. Last year, the Board earned a Red Shoe Award for a 56% increase in donations, a Bronze Award for a 12% per capita increase, and two Platinum Awards for 100% employee participation. The Board hopes to continue to achieve these fundraising accomplishments in 2002.

### New Motor Vehicle Board Cookbook

Cover designed by eight-year-old Megan Takehara



## NICOLE ANGULO RECEIVES EMPLOYEE AWARD

Nicole Angulo  
Management Services  
Technician



The Board considered and unanimously approved at its September 10, 2002, General Board meeting, the Development Committee's recommendation that Nicole Angulo receive the Employee Recognition Award for a job well done.

Ms. Angulo is being recognized for her excellent job performance and outstanding customer service. Ms. Angulo often handles extra calls when other staff is unavailable and is known for the courteous way she handles consumers calling with complaints. She is highly organized and is extremely efficient at processing voluminous amounts of letters for the mediation services representatives. In addition, she thoroughly researches complex issues, assists in administrative matters, and is greatly appreciated by all. Ms. Angulo has often been complimented for her professional, and very pleasant demeanor. In summary, her outstanding performance has contributed greatly to the Board's operations.

Why not visit us

on the web at:

[www.nmvb.ca.gov](http://www.nmvb.ca.gov)

Or e-mail us at:

[nmvb@pacbell.net](mailto:nmvb@pacbell.net)





## MEDIATION SPOTLIGHT

Mediation Services  
Representative  
Heather Collins

On June 20, 2001, a consumer began experiencing problems with her 2001 Ford Explorer Sport. The problems surfaced after only 7,200 miles when the Explorer's Check Engine Light went on and the Explorer began to operate sluggishly.

The consumer took the Explorer to Don Kott Ford for repair and it was determined that the problem was caused by a malfunctioning vacuum hose. While the hose was successfully repaired, the hose again malfunctioned four additional times over a nine-month period. On March 28, 2002, the consumer requested mediation through the New Motor Vehicle Board's Consumer Mediation Services Program.

On April 4, 2002, Senior Mediation Representative, Heather Collins, directed letters of inquiry to Don Kott Ford and Ford Motor Company, Customer Service Division ("Ford"). On April 22, 2002, Rick Holderbaum of Don Kott Ford responded to Ms. Collins' inquiry. He explained that the Explorer had been repaired and was currently in operating order. He also expressed concern, however, for the inconvenience experienced by the consumer, and in an attempt to rectify her concerns about future repairs, he offered her a Ford Extended Service Contract.

Ford contacted Ms. Collins on May 6, 2002, and indicated Ford was waiting for the consumer to accept or decline the extended warranty offer. On May 9, 2002, the consumer declined the extended warranty offer, explaining that she did not intend to purchase the Explorer at the end of the lease because of the numerous problems she experienced with the vehicle. Instead, the consumer presented a counter-offer requesting a termination of the lease along with a waiver of any early termination fees.

After a month elapsed with no response from Ford, Ms. Collins contacted Cynthia Chow at Ford's Customer Relations Department. Ms. Chow denied the consumer's early lease termination counter-offer.

Ms. Collins relayed Ford's rejection of the counter-offer to the consumer. The consumer remained unsatisfied with Ford's offer to provide an extended warranty given the fact that she did not plan to keep the Explorer beyond the term of the lease. As such, Ms. Collins again contacted Ford on July 3, 2002, and requested an offer from Ford that would compensate the consumer for the problems she experienced. As a result, Ford agreed to reimburse her for three months of payments totaling \$1,121.85. The resolution was agreeable to the consumer and she received her check in early August. The consumer contacted Ms. Collins to let her know she was very satisfied with the outcome of her case and that she was very appreciative of Ms. Collins' assistance.

## SOTERAS APPOINTED TO THE BOARD OF INVESTMENTS

Recently, the Los Angeles County Board of Supervisors unanimously approved the appointment of Solon Soteris to the Board of Investments.

Mr. Soteris is well qualified for the position given the fact that he is a pension funds consultant with Comerica Securities and has had a distinguished 40-year career as a banker with Imperial Bank, Ahmanson Bank, California Overseas Bank and Sterling Bank. He has also served as President of the Beverly Hills Bankers Association and the Beverly Hills Chamber of Commerce.

### MEDIATION STATISTICS

Mediation Phone Calls Received	1,311
Mediation Request Forms Sent to Consumers	224
Cases Filed	126

July 2002 thru September 2002

You can reach Mediation Services Staff at  
(916) 445-1888





From left to right: Dashielle Samoy, David Amond, Mayor of Culver City Carol Gross, Assembly Speaker Herb J. Wesson Jr., Brad Burlingame (Brother of American Airlines Flight 77 Pilot Charles Burlingame), Shiel and Robyn Ornedo (Wife and daughter of American Airlines Flight 77 passenger Ruben Ornedo)  
Background: Culver City Police and Firefighters

## SPEAKER WESSON INTRODUCES 9/11 PLATE

The Governor has signed legislation by Assembly Speaker Herb J. Wesson Jr. that creates the California Memorial License Plate to benefit the families of Californians lost in the September 11 attacks and support the state's fight against terrorism.

"Californians opened their hearts after September 11," Speaker Wesson said. "We donated money,

shipped medical supplies and sent our best-trained emergency workers. With these plates, Californians have one more way to help the victims of this terrible tragedy and display their support for our ongoing fight against terrorism."

The American flag design was created by Dashielle Samoy, a 17-year-old 12th grader at Allan F. Daily High School in Glendale, California, while the slogan "We Will Never Forget" was created by David Amond, a 17-year-old 12th-grader at Mary Star of the Sea High School in San Pedro, California.

"The tragedy of September 11 gave birth to a new feeling of patriotism," said Rev. Brenda Lamothe, one of the members of the selection panel. "It is a blessing to have something as simple as a license plate - created by California's young people - to rally around as we come together as Americans."

The plates are available to all registered California drivers for a \$50 one-time cost and a \$40 annual fee.



## UPCOMING BOARD MEETINGS

**General Board Meeting**  
October 29, 2002  
San Francisco



**Special Board Meeting**  
December 5, 2002  
Sacramento

Board Meeting dates are subject to change. A meeting agenda with time and location details is mailed 10 days prior to the meeting to all interested parties.